

## **AGENDA**

**FOR THE REGULAR MEETING OF THE CITY OF BELEN PLANNING AND ZONING COMMISSION, STATE OF NEW MEXICO, COUNTY OF VALENCIA TO BE HELD ON MONDAY THE 13<sup>th</sup> OF NOVEMBER 2017 AT 6:00 PM IN THE COUNCIL CHAMBERS AT CITY HALL, 100 SOUTH MAIN STREET, BELEN, NEW MEXICO 87002.**

ALL P & Z COMMISSION MEETINGS ARE VIDEO AND AUDIO RECORDED.

*A COPY OF THE AGENDA MAY BE OBTAINED FROM THE OFFICE OF THE CITY OF BELEN PLANNING & ZONING DEPARTMENT.*

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PLEDGE OF ALLEGEANCE**
- 4. APPROVAL OF AGENDA**
- 5. APPROVAL OF MINUTES:**  
October 30, 2017
- 6. PUBLIC COMMENT 3 MINUTE PRESENTATIONS:** If more time is needed for presentation, please ask to be scheduled on the next agenda.
- 7. PUBLIC HEARING WITH POSSIBLE ACTION**
  - a. REQUEST FOR ANNEXATION with a C-1 Zoning:** Jerry Rogers. **LEGAL DESCRIPTION:** Township 5 North, Range 2 East, Section 30, Map 104, Tract 30B2B, containing 1.14 ac and Tract 135C, Township 5 North, Range 2 East, Section 19, Map 101, Land of Juan S Garcia, containing .41 ac., located at the junction of S Main St. (HWY 314) and HWY 116, Belen NM 87002.
- 8. DISCUSSION**  
Fencing & Walls Ordinance  
Landscaping Ordinance
- 9. INFORMATIONAL ITEMS**
  - a.** Communication from the Commission and Staff
- 10. ADJOURNMENT**

RESPECTFULLY SUBMITTED

/s/  
Lisa R Miller  
Planning & Zoning Administrator

cc: Mayor & City Council  
News Bulletin

Belen Chamber of Commerce  
Belen Recreation Center

Belen Public Library  
Belen City Hall

**JERAH R CORDOVA**  
MAYOR  
**LEONA VIGIL**  
CITY MANAGER



**CITY OF BELEN**  
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**WAYNE GALLEGOS**  
CITY COUNCIL  
**DAVID CARTER**  
CITY COUNCIL  
**DARLEEN ARAGON**  
CITY COUNCIL  
**FRANK ORTEGA**  
MAYOR PRO-TEM

**CITY OF BELEN**  
**PLANNING & ZONING COMMISSION MEETING**  
**MINUTES**  
**OCTOBER 30, 2017**

Chairman Steve Etheridge called the regular meeting of the Belen Planning and Zoning Commission meeting to order at 6:00 p.m.

**PRESENT:** Chairman Steve Ethridge  
Commissioner Gordon Reeves  
Commissioner Claudine Montano  
Commissioner Jim Lardner

**ABSENT:** Vice Chair Pete Armstrong

**CITY STAFF:** Steven Tomita, Economic Development  
Lisa R Miller, Planning & Zoning Administrator

**OTHERS:** Sofia Hernandez, Circle K  
Rick Hughes, Circle K  
Paul & Barbara Baca, Zeke's Auto  
Raymond Salazar, Property owner  
Matt Ornelus, Citizen  
Andrew Anaya, Citizen

**PLEDGE OF ALLEGIANCE**  
Chairman Steve Ethridge led the Pledge of allegiance.

**APPROVAL OF AGENDA:**  
Lisa Miller informed the Commission that there were two errors on the Agenda. One was the day of the Commission meeting. It should be Monday instead of Tuesday, and on the request for a zone change for Circle D should read Circle K.

Commissioner Claudine Montano moved to approve the corrected Agenda of October 30, 2017.

Commissioner Gordon Reeves seconded the motion.

Motion Carried.

**APPROVAL OF MINUTES:**

Commissioner Gordon Reeves moved to approve the minutes of October 10, 2017.

Commissioner Claudine Montano seconded the motion.

Motion carried.

**PUBLIC COMMENT**

None.

**PUBLIC HEARING WITH POSSIBLE ACTION**

- A. REQUEST FOR A ZONE CHANGE FROM C-1 TO R-1: Raymond Salazar.**  
**LEGAL DESCRIPTION:** Township 5 North, Range 2 East, Section 18, Map 100, Tracts A & B, containing a total of .4546 ac. Aka 312 & 314 River Road, Belen NM 87002.

Lisa Miller informed the Commission said that Mr. Salazar came to the P & Z Office requesting information on how he could change the zoning from C-1 to R-1 on the properties located at 32 & 314 River Road. Mr. Salazar is trying to sell the properties and the Banks are requesting that they be zoned for what the present use is. At this time they are being used as residential lots.

Steven Tomita said that this was something that the Commission has had to address at an earlier meeting where people were trying to get financing to restore the buildings and they could not because it is not zoned for what it was being used as. He has checked with some banks and he was informed that the bank can do a loan but the property cannot be sold on the secondary market. It is the secondary market that is saying it has to be zoned by its present use. These secondary markets will not buy the notes from the bank in that situation. He has explained this to the City Council, because we have this scattered throughout the City and this is going to be a big problem in the future. The Council has asked the P & Z Department to identify these properties, get them all corrected. He informed the Council that the P & Z Department is not prepared to take on that big of a burden at this time. The other thing concerning this property is that Lisa has not been able to find documentation that that area was rezoned Commercial. She has found where its original zoning for that area was residential but unable to find the records that changed it. We are concerned that at some time it was just red lined in as commercial, but the applicant needs to get the property changed from what it is designated on our zone map to sell these properties. The County assessor's office shows this area to be residential and shows that Zeke's as commercial, and that is how these properties are taxed.

Lisa Miller informed the Commission that this area was originally zoned R-1A when the first zone map was put into effect in 1975. It was then changed to R-1 in May of 1979 and that is the last documentation that she has been able to find for this area. There is one possibility but there was no legal description in that Ordinance. She is waiting for the County to inform her whether there is an exhibit recorded with the Ordinance, as stated in the Ordinance, from them. On the North side of this property it is zoned C-1, on the East side it is zoned C-1 and R-1, on the South side is a mixture of R-1A and R-1 and on the West side you have R-1 C-1 and the railroad which is M-C. Information on the square foot requirements for the C-1 and the R-1 zones along with parking requirements was provided in their packets along with a copy of the zone map for that area.

Steven Tomita said that the applicant is present for any explanations and questions that the Commission may have.

Mr. Raymond Salazar informed the Commission that he owns the two properties in question and has owned them for a very long time. He spoke with Steven Tomita and Lisa Miller concerning these properties due to a recent hardship. To him it is a life and death situation for him at time. He has worked real hard and has keep those properties clean and the homes in good shape. He has rented these properties at a reduced rate to help people out. One rented for \$500 a month and the other one for \$600 month. He has always left the rent low and has even returned the deposit if the occupants move, whether they have trashed the place or not. This did not happen very often. Most of his renters stayed for a very long time. A few of them have even died while there, because the rent was low. He repaired them every time it was needed. He is asking for this change due to recent health issues and needs to slow down.

Mr. Paul Baca, Zeke's Auto, informed the Commission that this business has been there since 1955 and he has owned it for 26 years. He is concerned about these changes and how it might affect his business.

Steven Tomita said that it should not affect him.

Mr. Baca said that he has known Raymond for many years and has even co-owned some property with him. It concerned him in the respect of valuation of property.

Steven Tomita informed Mr. Baca that his business is in an R-1A zone and is considered a non-conforming use. Being the fact that it was existing when the zoning when into effect, he was grandfathered in. As long as he continues to use it as he presently, it will not affect you. If you decide to change anything then you will have to go back and its present zone, which is R-1A. As long as he does not change what he is doing he is ok.

Mr. Baca said that if he chose to sell, what affect that would have on him.

Lisa Miller informed him that he would have to request a zone change to bring it into compliance.

Chairman Steve Ethridge said that he does not see any effect to his business with Mr. Salazar's request to change the zone on his homes. If he does decide to sell the property

it would be to his advantage to have the zone changed because with a C-1 zone it has a higher property value.

Mr. Baca asked if he would have to go through the same process that Mr. Salazar is doing to get his zone changed.

Lisa Miller said yes. If you go to sell it you will have to have it zoned correctly. It does not affect you at the present time.

Chairman Steve Ethridge asked if there was any more public input. There was none. The public hearing was closed. He asked if the Commission had any more questions.

Commissioner Jim Lardner moved to recommend, to the City Council, an approval for a zone change from C-1 to R-1 change.

Commissioner Gordon Reeves seconded the motion.

Motion Carried.

Vote is as follows:

Commissioner Claudine Montano	Yes
Commissioner Gordon Reeves	Yes
Commissioner Jim Lardner	Yes

Steven Tomita said that there was a document that was found but it has no legal description and no attached exhibit attached, as the document states. Once Lisa receives the exhibit, if any, from the County, the question of zoning in that area will be answered. The City staff recommended that the applicant have the zone changed so that either way it will be documented formally and officially.

Commissioner Claudine Montano said that it is then more than likely zoned R-1 if no documentation can be found that shows it being changed to C-1.

Steve Tomita said more than likely.

Commissioner Claudine Montano asked if they were paying property taxes for residential or commercial.

Lisa Miller informed the Commission that those two properties are paying residential property taxes and Zeke's is paying commercial property taxes, according to County records. She informed Mr. Salazar that this will be heard by the City Council for a public hearing on November 6<sup>th</sup> and then a final Vote on November 20<sup>th</sup>.

- B. REQUEST FOR A ZONE CHANGE FROM R-1 TO C-1: Circle K Stores, Inc, Agent Sofia Hernandez. Legal Description:** Township 5 North, Range 2 East, Section 18, Map 100, Lots 8, 9, 10, CTS Addition, containing .36 ac. Aka 616-620 N Seventh St ., and Township 5 North Range 2 East Section 18, Map 97, Tracts 170A, 171A1,

171BAB, 171B1A2, containing .58 ac., aka 705, 701, 621 W Aragon Rd., Belen NM 87002.

Steven Tomita informed the Commission of the location of the properties along W Aragon and N Seventh on Google Earth. They consist of three homes and three Mobile Homes. This area is zoned residential so in order for Circle K to build on those properties they need the proper zone of C-1. An earlier action taken on this property involved the sale of alcohol within a 300 ft. radius of the schools parking lot. The City Council granted the waiver on this. Under different actions, taken by the Courts, this was exempted under court actions & lawsuits, but the state did not want to deal with it, so they asked the City to deal with it. Circle K will be heard by the Council for final approval of the zone change and at the same time they will be asking for the vacation of a portion of Seventh St.

Lisa Miller said that on the properties on the North side are zoned R-1, the properties on the West side are all commercial due to the fact that it is along Main St., on the East side it is zoned R-1, and on the South side it is a mixture of C-1 and R-1 and contains the Schools buildings.

Steven Tomita said that the area where the three manufactured homes are will be the ponding area so there will be a buffer between the store and the homes that are on the West side of Sixth St. It will be fenced off and there will be no access to it from that area. The main activity will be coming from Main St. and some on Aragon. There are two access points along Main St. and two along W Aragon. He showed them the projected store location.

Ms. Sofia Hernandez informed the Commission where the building will be, the ponding and the different access areas are.

Commissioner Claudine Montano asked if the three homes were vacant.

Ms. Hernandez said they were not.

Steven Tomita showed the Commission where the enclosed dumpster would be on the North East corner of the area. Most of the traffic will be coming in on Main St. The entrance on the farthest eastside will mainly be used for the agency who will be picking up the trash.

Commissioner Jim Lardner asked what will happen to the three homes.

Mr. Rick Hughes, Circle K, informed the Commission that they will be torn down when the purchase goes through. He said that all the land is under contract at this time. There are three different owners in that area so there are three different contracts.

Commissioner Gordon Reeves asked if they had purchased the property along Main St.

Mr. Hughes said that they were under contract for all properties.

Chairman Steve Ethridge asked if there was anyone in the audience who wished to speak.

Mr. Matt Ornelus showed the Commission where his home is and explained that it is a family home and his family has lived in Belen for generations. He came to this Commission meeting because he has a few concerns about this request. He is for expanding businesses to Belen. He asked what gives Circle K the right to request the zone change when they do not own the property.

Steven Tomita informed Mr. Ornelus that the owners of the properties gave them permission to act on their behalf. The owner has that right.

Mr. Ornelus said that one of his concerns is that the property would increase in value and wanted to know if his property taxes would go up.

Steven Tomita said that it does not affect his property at all. His residence is based on the value of being residential and theirs will be based on the value of being commercial.

Mr. Ornelus would like to see a layout of the proposed Circle K. He is concerned that the dumpster is going to be right across from his home. He has been picking up the trash that blows into his yard, from the existing Circle K for years. The traffic going in and out of the new location is going to be worse than it is now. Aragon has a lot of traffic since they have put the Aragon Overpass up and it is going to make it harder to get in and out of his yard. There is an access point next to one of the homes and wanted to know who owned it.

Steven Tomita explained that it was an easement through the owner's property. It is a drainage easement. Circle K is working with the City to relocate that drainage line.

Mr. Ornelus asked if the sewer, if you go right in front of his home, there is a horrendous sewer smell. He has been complaining about for around 20 years. He would like to know where the drains will be for the Circle K.

Steven Tomita said that the dumpster will be contained. It is fenced in.

Mr. Ornelus said that being fenced in does not affect the smell that comes from the dumpster. Once it is up and running, he would like to know how they are going to address the lighting, the noise, and the trash blowing into his yard. He asked if they were going to install a sidewalk along Aragon Rd. He is concerned about how much light is going to be shining into his home from them and if there are access points in the area he is going to be getting traffic light shining into his home from the cars going in and out of the Circle K. He feels that it is going to get worse than the one that already exists. They will be located right in front of him now and not have an empty lot between them. Circle K has a good neighbor policy but he has been picking up their trash for years and they have not been a good neighbor to him. He does not see how expanding and moving the location will make it any better, it will make it worse. The last point he made is the fact that they are displacing his neighbor, who has been there for eight years. His neighbor is on retirement wages and he is being forced to move with no help. Just because they are a big corporation and they come in and just buy up whatever they want. They are displacing people and asked why they need so much land. He said that Circle K has no compassion. The one trailer that will not be purchased is known to be a drug house and

once Circle K starts building they will be ripping everything off from the construction site.

Chairman Steve Ethridge said that the lighting has to comply with the Night Sky Protection Act and this applies to all new construction also. The lights are required to shine down and not across.

Mr. Ornelus said that the headlights from the traffic is going to shine right inside his bedroom.

Chairman Steve Ethridge said that, unfortunately, you can't control the cars.

Mr. Ornelus said that they could control the access point and not place it right in front of his home.

Chairman Steve Ethridge said that on a lighter side, with all the lighting that may go in will curtail the criminal activity that is supposed to exist, coming from that trailer. Cock roaches do not like light.

Commissioner Gordon Reeves asked for an aerial of Mr. Ornelus home be brought up on Google earth.

Chairman Steve Ethridge asked what would happen to the existing Circle K building.

Mr. Hughes informed the Commission that the present Circle K is on leased property. They lease deadline is coming up next year and that the company will remove the tanks and do any remediation that is required.

Chairman Steve Ethridge asked how long it would be before construction starts.

Mr. Hughes said that it would depend on Steven Tomita. WE have to get all of this approved and the street vacated before we can submit construction plans.

Chairman Steve Ethridge asked how long it typically takes to build a Circle K like this.

Mr. Hughes said three to four months.

Steven Tomita brought up a copy of the proposed site plan submitted by Circle K. He showed where the dumpster will be located. He showed that the primary traffic will be coming in from Main St. and it will be mostly people coming home from work. They will exit at the entrance closest to Gilbert Garcia's business come around to the pumps and then exit out closer to the intersection of Main and Aragon or back out where they came in. You will get minimum traffic coming off of Aragon. The biggest user is the coming home traffic.

Mr. Ornelus said that Steven was just guessing.

Steven Tomita said that he knows traffic patterns very well. That is one of his expertises.



Mr. Ornelus said that that's nice but he lives there and see's it every day and said that Steven was guessing.

Steven Tomita said that it is inconvenient to turn on Aragon and then enter the store area.

Chairman Steve Ethridge cautioned Mr. Ornelus and the public to please not talk over someone who is already speaking.

Mr. Ornelus said that he adamantly disagrees with Mr. Tomita because Mr. Tomita does not live there. He said that they would be coming and going right in front of his home and asked why they could not redesign the area to block that entrance off. The traffic right there is already bad since they put in the Aragon overpass. Everyone uses that Aragon overpass since you do not have to wait on trains. Circle K has made no effort to contact the neighbors. He wants to minimize the impact on his home and neighborhood.

Commissioner Jim Lardner said that they might drive into this Circle K from the first entrance on Aragon but people usually take the most convenient way of entering a parking area. The people on the other side of the tracts have the Valero station that is more convenient for them. He does not see the second exit on Aragon increasing the flow of traffic on Aragon. He only sees the people that are already on Aragon using the two exits into Circle K. Most people that are going to be pulling into Circle K are going to be coming off of Main St.

Mr. Ornelus said that he disagreed because once this opens up it is going to be crazy because it is new. He does not want one of the accesses in front of his home.

Commissioner Gordon Reeves said that the traffic turning east on Aragon shines lights on his home already, plus the traffic that turns into the existing Circle K gas pump. He asked to take a look at the front of his home on Google Earth.

Mr. Ornelus said there is an empty lot between him and the existing Circle K but it does not stop the trash from flying onto his property, and it does not stop the smell from coming across to his home. There is a lot of activity at Circle K, they turn up their music, which keeps him up on some nights, and there are beer runs that happen there all the time, and they fights and drug deals that bring in police activity also. He would like for Circle K to move or block that proposed second exit on Aragon.

Mr. Hughes said that Circle K is an existing business that does sell alcohol and they do the best that they can to curtail illegal activities. They are operating a legal business.

Ms. Hernandez said that there will be landscaping all along Main St. and Aragon creating a buffer. The trash enclosure is CMU so it is heavy duty enclosure and not just a plain fence. They will be replacing and putting in new sidewalks as offsite improvements. The Night Sky Ordinance will be followed for the lighting of the area. The sewer will be tapping into the existing sewer line on Seventh St.

Mr. Hughes said that if the sewer smell is coming from that area, they will be addressing that with the closure of part of the existing sewer line in Seventh St. If it is coming from

the homes, they will be removing those homes and capping off the sewer connection which will eliminate some of the smell.

Chairman Steve Ethridge said that he has seen some of the City employees on Aragon and knows that it is on a different system. It is a pressurized system in that area.

Steven Tomita said that there are two main retail businesses. That is the draw retail and the capture retail. Any retail will pull a certain amount of people that will come to shop there. Wal Mart, Lowes, Tractor Supply, Home Depot and Walgreens are an examples of a draw retail. Your small retail businesses, such as Circle K, Valero, etc. are capture retail. They do not survive if they cannot capture. There are 19,000 cars a day on Main St. and they will get the biggest amount of their customers going home. That is their primary business to capture that traffic.

Commissioner Claudine Montano said that she likes the idea of a bigger Circle K, but she also feels bad for the people that are being displaced.

Commissioner Gordon Reeves asked if they were all rental properties.

Mr. Hughes said they were.

Steven Tomita showed the Commission and the audience the street view of Mr. Ornelus' home. There is a six foot solid wood fence along the front of his home that faces Aragon.

Commissioner Gordon Reeves said that from what he can tell when looking at the proposed layout plan, the second exit off of Aragon.

Mr. Hughes said that the exit is 40' wide.

Steven Tomita said that would put the exit at about 70' from the property line. It is basically located where the lights would shine on the empty lot on the east side of Mr. Ornelus.

Mr. Ornelus said that Mr. Hughes said that no one is going to be turning left from that exist. He does not understand that statement and disagrees. Traffic coming in and out will affect him. Mr. Hughes comment shows a lack of concern for the neighbors. He just wants that entrance changed or blocked off.

Mr. Hughes explained what he meant about that statement. He showed where the store would be and where the gas pumps were going to be located. If someone is at the fueling station or at the store they are more than likely going to exit on Main St. and not Aragon unless they need to go east on Aragon to get home.

Mr. Andrew Anaya, at 701 Aragon, said that he is disabled and on a budget and he is one of the ones being evicted. His landlady is happy about it and he is happy that Circle K is expanding, but he is losing his residence. It is hard to find a residence now. The traffic along Aragon in that area is crazy. His mailbox was taken out the other night. The cops are at the existing Circle K every other night. There is a lot of drug traffic going on there.

Chairman Steve Ethridge closed the public hearing. He asked the Commission if there was any discussion or concerns.

Commissioner Gordon Reeves moved that the Commission send a recommendation of approval to the City Council for the zone change from R-1 to C-1.

Commissioner Jim Lardner seconded the motion.

Motion carried.

Vote was as follows:

Commissioner Claudine Montano	Yes
Commissioner Gordon Reeves	Yes
Commissioner Jim Lardner	Yes

Lisa Miller explained that the next step is a public hearing in front of the City Council on the 6<sup>th</sup> of November and a final vote with the City Council on November 20<sup>th</sup>.

Mr. Ornelus asked if the vacation of a portion of Seventh St. included in their vote.

Steven Tomita said no. It is the Council that decides on the vacation of the road which will also be heard by the Council on the 6<sup>th</sup> of November.

## **DISCUSSION**

### **Fencing & Walls Ordinance**

Chairman Steve Ethridge asked why the Commission was looking at the Fencing & Walls Ordinance again.

Steven Tomita said that he preferred that this Ordinance be taken to a workshop before it was heard by the Council. He recommends that the Commission request a workshop with the Council before having a Public Hearing. The minute that the Council heard about the no fencing in the front yards, that about killed it. Everything after that just got the reaction of no that isn't going to happen. The role of the Commission is to establish the language that they feel is appropriate then it is moved forward to be heard by the Council. The Commission is sending it to the Council with their recommendation that it is in that language that should be adopted. The role of the Council is to then read it, discuss it, and if there are points that they do not like, they have an option to deny the recommendation of the Commission or to change what the Commission recommended. The council said that they did not like the part with the no fencing in the front yard, so they send it back to the Commission to reassess the fencing ordinance and they can keep doing that. It is not the role of the Commission. The Commission has already made their recommendations. It should be the Council saying yes or no or they want to change some things. It is open for the Commission to discuss whether they want to make the changes on the front fencing, especially in the existing areas of the City, then send it back to the Council. He suggested that whatever the Commission decides to do, they request that a workshop with the Council be held before it goes before the Council in a public hearing.

Chairman Steve Ethridge feels that they have to have a workshop. He does not know whether any of the Council had even read over the ordinance. It seemed like they were reading it for the

first time at the public hearing. The only way that they are going to all be on the same page is for the Commission and the Council have a workshop.

Steven Tomita said that he explained to the Council that this ordinance had gone through a lot of vetting. He informed the Council that there was a lot of discussions, debates, disagreements amongst the Commission before the ordinance was agreed upon. He explained that Mr. Armstrong lives in one of the areas that have existing front fencing, had a lot of opposition to the no front fencing part of the Ordinance. The key is in the language in the ordinance is that they could come back for a conditional use. He told them that you do not build high walls around everything and live in your own prison and have someone, a business, looking at Belen to locate see all of those high fences. They will look at that and say this must be a bad City to move to.

Chairman Steve Ethridge said if they are all worried about the crime issues, they can ask the City Council if they want to have 8' walls around all the new homes, etc.

Steven Tomita said that they were fine with it on a new subdivision but they don't want to change downtown, existing, Belen.

Commissioner Gordon Reeves asked to have the Fencing Ordinance brought up on screen.

The Commission discussed the front yard fencing.

Commissioner Gordon Reeves said that maybe they should reword so that existing fences can be addressed.

Steven Tomita said that he explained to the Council that if there is a problem with crime, etc. that the property owner can apply for a Conditional Use.

Lisa Miller read where it mentions existing fencing.

Steven Tomita said that the Council had an issue with that. What if the owner wanted to replace an existing fence with a nicer fence or a different type of fence than they already had.

Commissioner Jim Lardner said that the Commission has dealt with that a few Commission meetings back where someone replaced a fence with another type of fence. That Conditional Use was granted. He asked if the issues that they are having with the Fencing Ordinance was brought up by the Council or was it someone else. In other words who is driving the bus?

Steven Tomita said that the Commission drives the bus as far as creating the ordinance or modifying an existing ordinance to what the Commission sees as the vision of Belen. It then goes to the Council to adopt. The Commission cannot adopt an ordinance.

Commissioner Jim Lardner said his question is that the Commission is working on the ordinances and placing it in front of the Council for approval, but is it what the Council really wants.

Steven Tomita said that the Council cannot dictate what they want the Commission to do. The Commission establishes the language for a Comprehensive Plan, the Zoning Ordinances, etc. The Commission uses public workshops for public input, though most of the time no one shows up, then sends it on to the Council for approval. The only time the public comments on it is when it

has already been adopted then they come out of the woodwork to complain. He thinks it would be best to have a workshop with the Council to review and work this out. What brought this on was that there were major complaints on some fencing that has gone up and the City has nothing in their Ordinances to address the issues of materials used, etc. The City doesn't have much of a landscaping Ordinance either. The Council cannot create this document, it is up to the Planning & Zoning Commission to do so.

Commissioner Gordon Reeves asked if there was a way that the Commission can re-word the parts that the Council has issues with, so that it says the same thing in a different way.

Commissioner Claudine Montano asked if the Council has even read what was given to them.

Steven Tomita said that they more than likely did not. He would have rather had them read through the whole document and if they had questions or concerns then send it back to the Commission than not read it and react the way they did. This is the second time this has gone to the Council. They did not like the first one, in a workshop, then they sent it back to us and we have thoroughly gone through and came up with what was given to them this last time.

Chairman Steve Ethridge asked how hard it would be to change things at a later date. Make the Council happy at this time and later come back and change things.

Steven Tomita said if we do not do it now, it more than likely will not be done later.

Commissioner Jim Lardner asked if they thought that the problem with the City of Belen is that we have small residential lot and large residential lots, we are City and Rural all is the same area.

Steven Tomita said that this Ordinance does address that by saying anything under 10,000 sq. ft. has no front yard fencing and anything over 10,000, front fencing is allowed. One of the problems is that nobody wants to change, but eventually you are going to have to change.

Fencing, maintenance and existing fences were discussed.

Chairman Steve Ethridge said that the Commission needs to sell this Ordinance. If they cannot convince the public and the Council of the importance and reasoning behind the Ordinance then there are going to be a lot of issues.

The Commission decided to request a workshop with the Council and the public.

Steven Tomita suggested that they make any corrections to the Ordinance before the workshop. These corrections can be done now or at the next meeting. Existing fences are already grandfathered in but we can get rid of the language to say that they can keep their existing fence it has to be a certain height, but meet the current Ordinance standards, as far as materials, design, etc.

Chairman Steve Ethridge said that he would personally like to look over the whole thing again and discuss, change, or leave it same, at the next meeting. He suggested that the Commission invite the fence company's in the area to attend the meeting also. He also said that even the clear view fencing can have an issue with the clear site view at the corners. He said that this needs to be addressed in the Ordinance if it is not already there.

Steven Tomita said that there was a comment from the News Bulletin saying, why are you writing a new fence ordinance when you are not even enforcing the existing one. He informed them that there is no existing fencing ordinance. All we can do at this time, is enforce the height restrictions on fencing.

It was decided that it would be reviewed at the next meeting giving the Commission time to read over the Ordinance and make any changes they see need to be changed.

#### **INFORMATIONAL ITEMS**

Chairman Steve Ethridge asked how big of an Agenda does it look like for the Commission on the next meeting.

Lisa Miller informed them that there is an annexation scheduled for the next meeting.

Steven Tomita informed the Commission that there will be a Conditional Use case at the end of the month dealing with AC Disposal. Staff will be scheduling a tour of AC Disposal's facilities. This will happen on November 21st at 3:00 PM or 6:00 PM. This tour will be as a group.

Chairman Steve Ethridge asked if they can just show up in their own vehicles.

Steven Tomita said no, because he has to make sure that no discussion takes place between the Commission until the public hearing. No discussion can happen.

The Commission decided on the 3:00 PM tour.

Commissioner Claudine Montano said that she had heard a rumor that CVS was looking at the old Belen Glass and Caldwell Motor area.

Steven Tomita informed the Commission that there is a rumor going around about that it is also going into David Cordova's building on Main and Reinken Ave. CVS wants to go into three locations at one time. One in Los Lunas, one in Belen, and one in Socorro. Los Lunas is not being co-operative with them. If they can't go into all three at the same time, they won't go in at all. The new CVS is also bringing in a medical clinic along with the drug store. They were originally looking at the whole block where Hub Furniture is, but Century Link gave them problems because they have a building located on that block.

Commissioner Claudine Montano has also heard that DFA is giving the schools some problems over Tractor Supply.

Steven Tomita said they were. The state is giving everyone a hard time. DOT has given Loves, Circle K, and the Credit Union a hard time. DFA is giving Tractor supply a hard time but there is no legal basis behind it so he thinks that will hopefully go away. Steven Tomita informed the Commission that ACE Hardware is coming to Belen. They will be located at the Bargain Square building. It is a three year lease. They will continue to work with Adelante to purchase the building but will be looking for a location to build also. There is a lot of activity going on in Belen at this time.

**COMMUNICATIONS FROM THE COMMISSION AND STAFF.**

Commissioner Jim Lardner asked if they could get cliff notes for the order of business for the Commission meetings and public hearings. He feels this would help them if they have a checklist that they can follow and mark off as they go.

Steven Tomita informed the Commission that it came about tonight so that you know that these are the procedures that need to be followed. He will do this. One of the issues that was brought up earlier is does the Chairman vote. If you have a five member or less Board or Commission, the Chairman has the option to vote. If you exceed more than a five member Board or Commission, they do not.

The Commission agreed.

Commissioner Jim Lardner informed the Commission that there was a film crew filming in Belen and they used his father's old cars. It was kind of a dilemma at one point because they did not have anybody that could drive those cars. They are different than the ones we drive today.

Steven Tomita said that was some interesting filming going on. The time period it took place in was a very classic period. He took Leona and Rose Mary down while they were filming. Judy Chicago's building was used as a bank and they were shooting the robbery scene at the time, there people in the bank with tommy guns and the police were outside waiting for them to exit, the robbers came out shooting and Rose Mary screamed, standing right next to the director. It blended in with all the actors screaming so they did not have to stop and film again.

Chairman Steve Ethridge said he had a caller today complaining on an empty lot next to her at the end of Fifth St. He informed her that she needs to get with some of the neighbors and get a petition going and then attend a City Council meeting and present them with the petition or a list of their concerns. He said rest in peace for Al Hurricane and an actor from the sitcom Soap.

**ADJOURNMENT**

There being no further business to come before the City of Belen Planning & Zoning Commission, Commissioner Gordon Reeves moved to adjourn.

Commissioner Jim Lardner seconded the motion.

Motion carried.

The regular meeting of the City of Belen Planning & Zoning Commission adjourned at 8:16 pm.

---

Chairman Steve Ethridge

ATTEST: \_\_\_\_\_  
Steven Tomita, Economic Development Director

CITY OF BELEN  
100 SOUTH MAIN STREET  
BELEN NM 87002  
(505) 864-8221

### **NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that the Belen Planning and Zoning Commission will conduct a public hearing to consider the following property for annexation into the current city limits with a C-1 (General Commercial) Zoning Designation.

**LEGAL DESCRIPTION:** Township 5 North, Range 2 East, Section 30, Map 104, Tract 30B2B, containing 1.14 ac., and Tract 135C, Township 5 North, Range 2 East, Section 19, Map 101, Land of Juan S Garcia, containing .41 ac.

You are further notified that this public hearing will be held on **Monday, November 13, 2017 at 6:00 PM**, in the Council Chambers at City Hall, 100 South Main Street, Belen NM 87002.

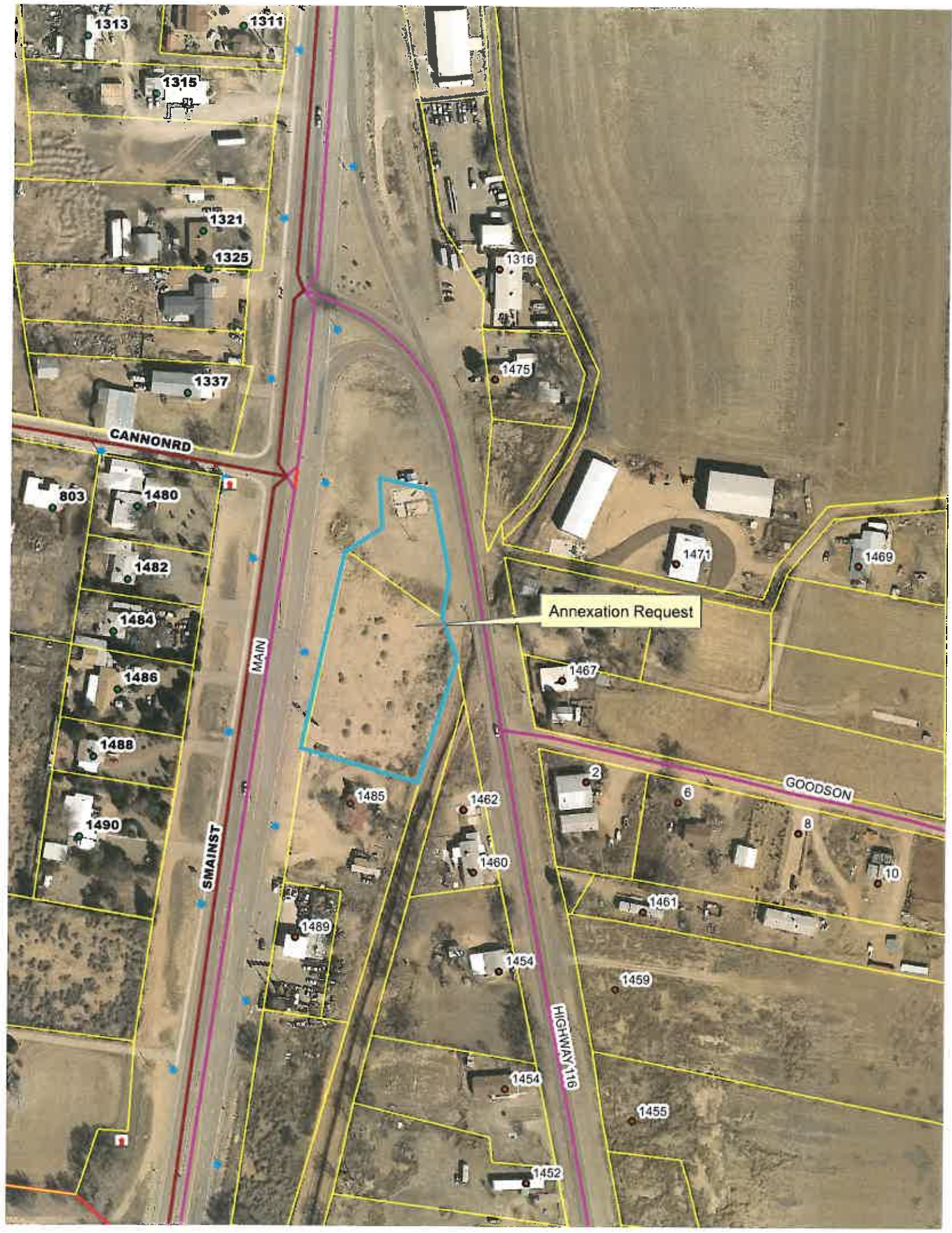
The City Council will conduct a public hearing to consider this annexation on **Monday November 20, 2017 at 6:00 PM**, in the Council Chambers at City Hall, 100 S Main Street, Belen NM 87002.

The Belen City Council will take final action at the Regular Meeting on **December 4, 2017 at 6:00 PM** in the Council Chambers at City Hall, 100 S Main St, Belen NM 87002.

Any person having objections or wishing to be heard should attend the above scheduled hearings or may write comments to the Planning & Zoning Department, 100 South Main Street, Belen NM 87002.

**LEGAL NOTICE PUBLISHED: October 26, 2017**







**CITY OF BELEN, NEW MEXICO  
DEVELOPMENT REVIEW APPLICATION**

Date of Application: 10-17-17  
Name of Development: \_\_\_\_\_  
Case Number: \_\_\_\_\_

**TYPE OF DEVELOPMENT:**

- |   |  |
|---|--|
| <input type="checkbox"/> Subdivision                | <input type="checkbox"/> Special Use Permit  |
| <input type="checkbox"/> Sketch Plan                | <input type="checkbox"/> Conditional Use Permit                                      |
| <input type="checkbox"/> Preliminary Plat           | <input type="checkbox"/> Limited to Six Months                                       |
| <input type="checkbox"/> Final Plat                 | <input type="checkbox"/> Variance  |
| <input type="checkbox"/> Preliminary and Final Plat | <input type="checkbox"/> Appeal  |
| <input type="checkbox"/> Amendment to Zoning Map    | <input checked="" type="checkbox"/> Annexation: <u>1.5597</u> <sup>AC.</sup> acreage |

Applicants Name: Jerry Rogers Phone: 865-6612  
Address: PO Box 507 Los Lunas NM. 87031  
Authorized Agents Name: DAVID TROBETTS Phone: 505-865-0396  
Address: PO. Box 2337, Los Lunas, NM. 87031

Address of Property: NONE  
Block and Lot: \_\_\_\_\_ Addition: \_\_\_\_\_  
Tract Number: 30B2B + 135C Map: 101, 104  
Total acreage in Tract: 1.5597 AC.  
Number of Dwellings: 0 Density/Acre: \_\_\_\_\_  
Zoning of Property: 2 Present Use: Vacant land  
Requested Zoning: C-1

**ADMINISTRATION**

Application Received By: Lisa E Miller Date: 10-17-17

Filing Fee: \$ 250 Receipt # 14.007808

Scheduled Review of Application by:

Planning and Zoning Commission	Date: <u>11-13-17</u>
Belen City Council:	Date: _____

Original Mylar Submitted: ☒ Yes ( ) No Date: 10-17-17

PETITION FOR ANNEXATION

Name and address of Petitioner (s):

Jerry Rogers  
PO Box 507 Los Lunas NM 87031

I (We), own the following-described property:

TRACT 1, PLAT of LARA of Juan S. Garcia plat N-508  
and TRACT 30-B-2-B, MAP 104, plat ~~21~~ K - 240

The total acreage of the property is:

1.5597 AC.

The above-described property is located within the area that is proposed for annexation, as shown on the attached plat and description.

I (WE), hereby petition the City of Belen to annex the territory as designated on the attached plat and description.

NAME:

x Jerry Rogers

DATE:

x 10-6-17

**Instruction:**

1. Fill in your name and address; property description, and the total acreage of your property.
2. Attach a survey and legal description of your property.
3. Sign and date your petition; file the petition with the City Planning and Zoning Department and request a date on which your petition will be presented to the Planning and Zoning Commission and City Council.

**DAVID TIBBETTS SURVEYING COMPANY**  
**P.O. BOX 2337, LOS LUNAS, N.M. 87031**  
**505-865-0396 tibbettssurveying.com**

October 17, 2017

To: Lisa Miller  
Planning and Zoning Administrator  
100 S. Main Street  
Belen, NM 87002

Letter of Transmittal

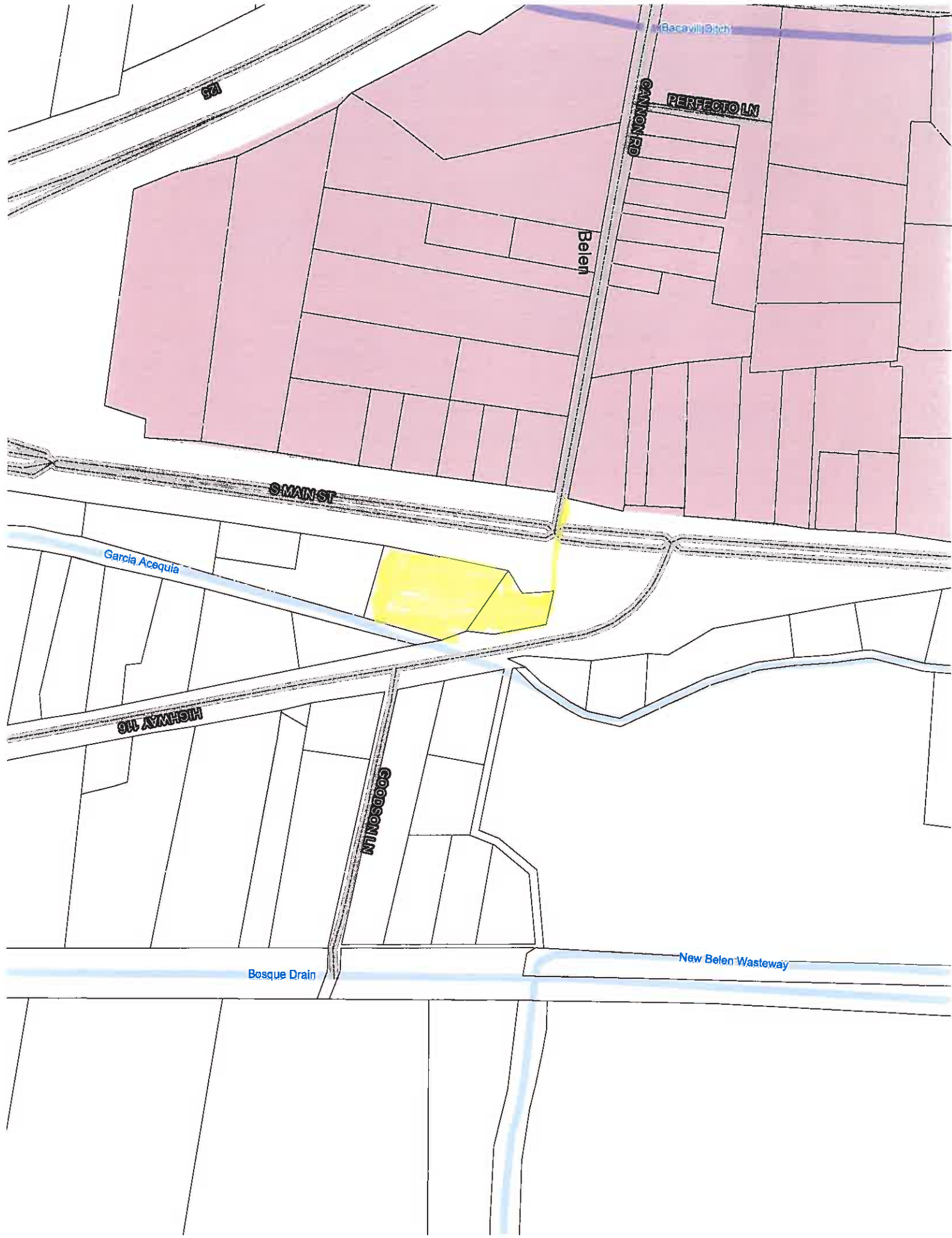
Greetings,

I submit this plat entitled Annexation Plat, Land of Jerry Rogers, for your review and approval. These are commercial parcels on the south end of town that should be in the city limits, due to their commercial potential. They fit in well with the existing municipal limit and would be an asset to the city.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "David E. Tibbetts", followed by a long horizontal flourish.

David E. Tibbetts, PS 10024  
Agent for Jerry Rogers



**JERAH R  
CORDOVA**  
MAYOR  
**LEONA VIGIL**  
CITY MANAGER



**CITY OF BELEN**  
100 SOUTH MAIN STREET  
BELEN, NEW MEXICO 87002  
(505) 966-2730 • FAX (505) 864-8408  
[www.belen-nm.gov](http://www.belen-nm.gov)

**WAYNE GALLEGOS**  
CITY COUNCILOR  
**DAVID CARTER**  
CITY COUNCILOR  
**DARLEEN ARAGON**  
MAYOR PRO-TEM  
**FRANK ORTEGA**  
CITY COUNCILOR

### **CASE REPORT**

November 8, 2017

### **ANNEXATION REQUEST**

**Location:** Corner of HWY 314 (S Main St.) and HWY 116, Belen NM 87002

### **SITE DATA**

**Existing Use:** Vacant      **Lot Size:** Tract 30B2B (1.14 Acres) & Tract 135C (.41 Acres)

Direction	Zoning	Existing Land Use
North	C-1 & C-2 (VC)	General Commercial (B), Community Commercial (VC)
East	RR-2 (VC)	Rural Residential Districts – 2 acre minimum (VC)
South	RR-2 & C-2 (VC)	Rural Residential District-2 acre minimum & Community Commercial (VC)
West	A-R & C-1 (B)	Single Family Residential

\*See attached zone map.

### **REQUEST**

The applicant is requesting a Zone of C-1

RR-2 (VC)	C-1 Requirements (B)
Rural Residential	Residential Use is 7,000 Square Feet
2 acre minimum	Commercial – does not say
Front Setback- 30 Feet	Commercial-6 Feet, Residential-20 Feet
Rear Setback- 15 Feet	15 Feet
Side Setback- 15 Feet	5 Feet

Off Street Parking – enough for emergency vehicle turn around	As per 17.56
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\*See attached RR-2 (VC) and C-1 (B) Zoning Regulations & Off-Street Parking

### **STAFF FINDINGS**

1. The Zoning surrounding this request is mainly RR-2 (VC).
2. The surrounding area consists of Single Family Residential Homes. Farther to the south is Akins Station zoned C-2 (VC) and on the NE side is Curbside Towing.
3. Sewer is located across S Main St. on the West Side. A 1 1/2" water line runs down HWY 116 to the Pueblitos church and is not an adequate main. See attached email from water department.
4. S. Main St. is considered a major arterial road. In the Belen area, it is all zoned C-1.



A-R

ANGELINALN

C-1

A-R

M C BACALN

SMESARD

PERFECTOLN

A-R

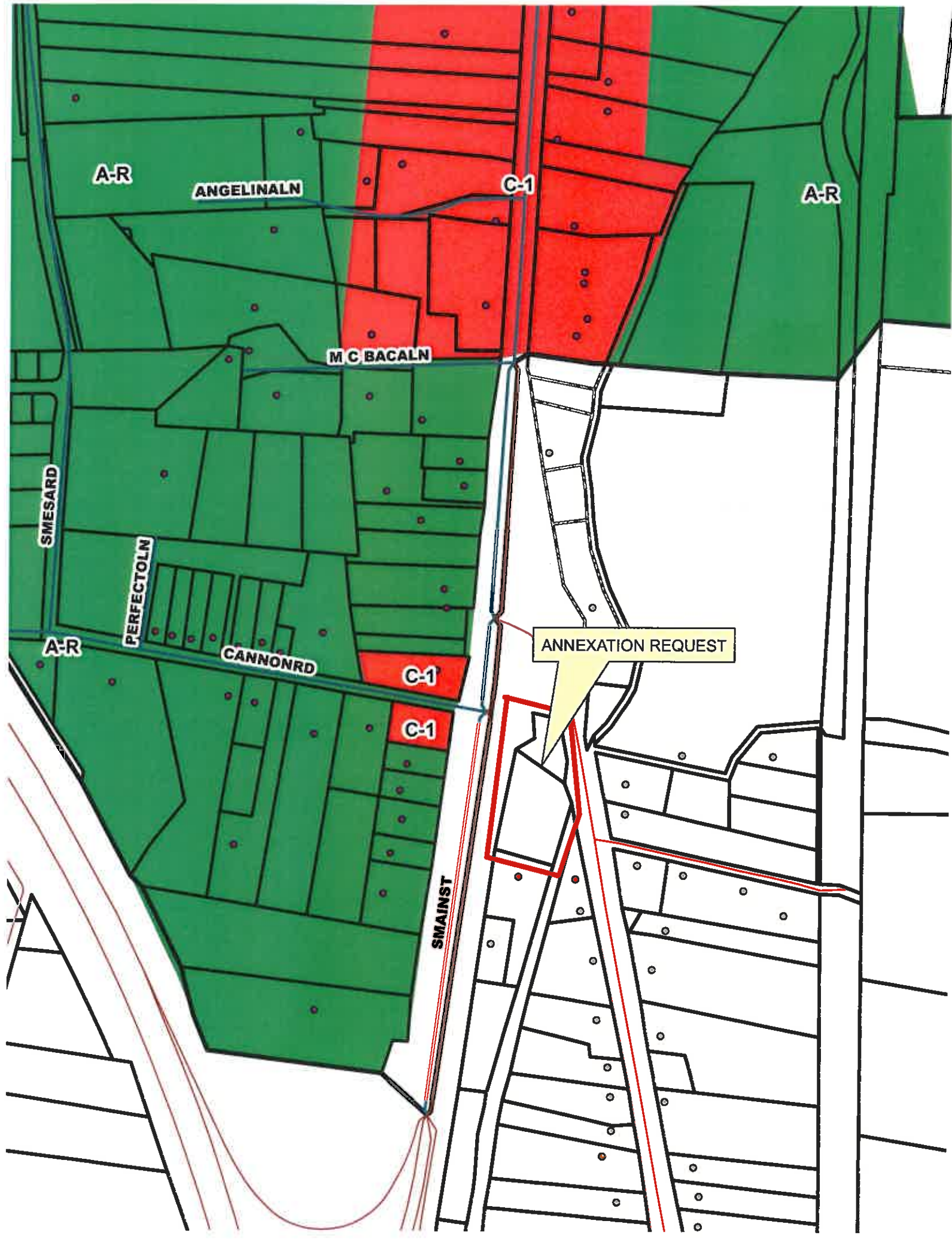
CANNONRD

C-1

C-1

ANNEXATION REQUEST

SMAINST





**Lisa Miller**

---

**From:** Ralph A. Jaramillo  
**Sent:** Monday, October 23, 2017 11:40 AM  
**To:** Lisa Miller  
**Cc:** Steven Tomita; Dale R. Tafoya  
**Subject:** Property 116

As far as we know there is no sewer service to this property. Sewer is across HWY 314 at the 1400 block . There is a water line on the east side of property running north/south, it is a 1 ½ inch water line serving properties on 116 to the Pueblitos church . This is not an adequate main.

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Confidentiality Notice: This e-mail, including all attachments is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited unless specifically provided under the New Mexico Inspection of Public Records Act. If you are not the intended recipient, please contact the sender and destroy all copies of this message.

(4) Similar uses similar in character, scale and performance, or with similar noise, odor, traffic, air and water quality impacts on neighboring properties.

(C) *Conditional uses.* A zone change, or temporary use permit as appropriate, is required for all other uses not expressly permitted in division (B) above.

(D) *Non-conforming uses.* Non-conforming uses found in the Outland District are subject to the non-conforming use provision of § 154.059 as well as any other applicable provisions of this chapter.

(E) *Minimum dwelling lot size.* The following standards apply to all land uses within this zone district: minimum lot sizes for dwellings shall be as provided by the RR-1 Zone District herein this chapter.

(Ord. 2004-05, passed 9-15-2004) Penalty, see § 154.999

## RESIDENTIAL DISTRICTS

### § 154.105 RURAL RESIDENTIAL DISTRICTS (RR-1, RR-2).

#### (A) *Purpose.*

(1) The purpose of the Rural Residential Districts is to provide for varying densities of rural residential development on selected lands identified in the comprehensive plan for preservation of low density rural living.

(2) The RR Districts are intended to accommodate rural residential development at an anticipated magnitude or density level that does not require more than a very basic level of services, such as single local-road access, individual domestic wells and septic tank sewage-disposal systems, and rural fire protection. Ultimate density limitations in the RR District shall be determined by prevailing lot sizes community character, compatibility with existing uses in the district, limitations of domestic water sources, soil conditions and groundwater tables for subsurface sewage disposal, and area designations identified in the Valencia County comprehensive plan. Opportunities for small-scale or intensive farm activities compatible with low density rural residential uses shall be encouraged in the RR Districts.

(B) *Permitted uses.* In the RR Districts, the following uses shall be permitted subject to the standards and limitations set forth in division (F) below:

- (1) Farm uses, subject to the limitations in division (F) below;
- (2) One principal dwelling per parcel;
- (3) Accessory uses;
- (4) Signs, pursuant to the sign provisions set forth in § 154.166;
- (5) Public facilities;
- (6) Community or municipal water-supply system; and
- (7) Community or municipal sanitary-sewer system.

(C) *Conditional uses.* In the RR Districts, pursuant to the Type B application procedure set forth in § 154.076, and subject to the conditional use review criteria listed in § 154.057, and any other applicable criteria established by this chapter, the following uses may be allowed conditionally:

(1) Temporary secondary mobile home or residential trailer dwelling, in conjunction with a principal dwelling on the same parcel, only for family members requiring special care, subject to the following:

(a) The family member requiring special care is aged, infirm or who, for health-related reasons, is incapable of maintaining a complete separate residence;

(b) The permit for the temporary home for special care shall be valid for a period of 2 years or shorter period as the Zoning Department determines to be appropriate, provided, however, that the permit may be revoked by the Department at any time if any of the reasons for which the permit was granted are no longer applicable, or if any imposed condition is violated;

(c) The permit for the temporary home for special care shall be granted to the applicant only and shall not be deemed to run with the land; and

(d) Under any circumstances, a second dwelling under this section, and in any RR Districts shall not be approved if the net size of the parcel for the principal dwelling is less than 0.76 acres in size.

(2) Home occupation, as defined by this chapter, subject to the standards and limitations set forth in § 154.168;

(3) Kindergarten, day nursery, or day care facility in conjunction with a principal dwelling on the same parcel, subject to the standards for day care facilities set forth in § 154.169;

(4) Utility facility, with the exception of energy generation facilities, subject to §§ 154.035 through 154.040 for site design review;

(5) (a) Temporary structures as may be required during construction of an authorized permanent structure.

(b) The temporary structure shall be removed upon final inspection of the permanent structure by the Building Inspector.

(c) Temporary structures under this subsection shall be reviewed under the Type A application procedure as described in § 154.075 of this chapter;

(6) Temporary sales offices for permitted uses, pursuant to the Type A application procedure set forth in § 154.075 and subject to § 154.056 for temporary permits;

(7) Public or private school, including all buildings essential to the operation of a school, subject to §§ 154.035 through 154.040, site design review; and

(8) Church, subject to §§ 154.035 through 154.040, site design review.

(D) *Prohibited uses.*

(1) Uses of land and water not specifically mentioned in this section shall be prohibited in the RR Districts.

(2) Cluster developments and parcel averaging shall not be permitted in the greenbelt as defined in this chapter and in the comprehensive plan.

(3) Recreational vehicles (RVs) shall not be used as primary residences in any Rural Residential (RR) District.

(E) *Non-conforming uses.* Non-conforming uses found in the RR Districts are subject to the non-conforming use provisions of § 154.059 as well as any other applicable provisions of this chapter.

(F) *Standards and limitations.* In the RR Districts, the following standards and limitations shall apply:

(1) *Dwelling density.*

(a) *Dwelling density for permitted uses.*

1. The maximum overall dwelling density for any new development shall not exceed:
  - a. One dwelling per 2 acres net in the RR-2 District; and
  - b. One dwelling per 1 acre net in the RR-1 District.
2. Not more than 1 principal dwelling shall be permitted on any parcel, except in the case of clustering development and as follows:
  - a. One duplex may be allowed on any 4 acre parcel in the RR -2 District;
  - b. One duplex may be allowed on any 2 acre parcel in the RR-1 District.
3. For the division of any contiguous lands under the same ownership or under a common promotional plan, parcel sizes may be averaged if the tract to be averaged under this section is at least 10 acres, and provided that the maximum overall net density of the applicable RR Districts are not exceeded, and provided that no parcel shall be below the applicable minimum parcel size established by division (2) below.

(b) *Dwelling density for conditional uses.* Not more than 1 secondary dwelling (other than guest house secondary dwelling) shall be permitted on any parcel.

(2) *Parcel size and dimension.*

(a) *RR-1 District.*

1. *Newly-created parcels.* The maximum depth-to-width ratio for any newly-created parcel shall be 3 to 1. The minimum size of any newly-created parcel shall be 1 acre, exclusive of any easements for public right-of-way and except as follows:
  - a. In the case of parcel-size averaging, the minimum parcel size shall be no less than 3/4 of 1 acre, net 32,670 square feet;
  - b. In the case of a duplex, the minimum parcel shall be 1-1/2 acres; and
  - c. In the case of a residential planned development, the minimum parcel size shall be 10 acres prior to a subdivision of the parcel.

2. *Pre-existing lots of record.* Any permitted or conditional use provided for in this district may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section. In addition, prior to issuance of a building permit for a principal dwelling, the provisions of § 154.057 shall be satisfied.

(b) *RR-2 District.*

1. *Newly-created parcels.* The maximum depth-to-width ratio for any newly-created parcel shall be 3 to 1. The minimum size of any newly-created parcel shall be 2 acres, except as follows:

- a. In the case of parcel-size averaging, the minimum parcel size shall be 1-1/2 acres;
- b. In the case of a duplex, the minimum parcel size shall be 2 acres; and
- c. In the case of a duplex or multi-family planned development, the minimum parcel size shall be 10 acres prior to a subdivision of the parcel.

2. *Pre-existing lots of record.* Any permitted or conditional use provided for in this district may be established on a substandard pre-existing lot of record, subject to the applicable requirements of this section. In addition, prior to issuance of a building permit for a principal dwelling, the provisions of § 154.057. shall be satisfied.

(3) *Setbacks.* The following setback requirements apply to all RR Districts unless varied or waived by a planned development, subject to § 154.121.

(a) *Front yard.* The minimum front yard setback shall be 30 feet except that the minimum setback for all yard signs shall be 5 feet.

(b) *Side and rear yard.* The minimum side and rear yard setbacks shall be 15 feet, except as provided in this section.

(c) An accessory structure not more than 15 feet in height, at least 60 feet from a road, and at least 10 feet from any dwelling may be located a minimum distance of 15 feet from the property line in a side yard or rear yard.

(d) Fences, walls and hedges may be permitted in any required yard or along the edge of any yard, subject to the clear-vision area requirements of division (6) below.

(4) *Parcel coverage.*

(a) For any parcel of 1 acre or more, but less than 10 acres, the maximum parcel coverage shall be 20%.

(b) For any parcel of less than 1 acre, the maximum parcel coverage shall be 15%.

(5) *Access.*

(a) Before a dwelling may be established on any parcel as provided in this section, the parcel shall have a legal, safe and passable means of access by abutting at least 30 feet either directly upon a public road, or by a private easement which is at least 30 feet in width for its entire length and which also abuts upon a public road for at least 30 feet.

(b) Nothing in this section shall be construed to vary or waive the requirements for creation of new access contained in the Valencia County Subdivision Chapter adopted by Valencia County.

(6) *Clear-vision areas.*

(a) A clear-vision area shall be maintained on the corner of any parcel at the intersection of any 2 of the following: county roads; public roads; private roads serving 4 or more parcels; and railroads.

(b) A clear-vision area shall contain no sight-obscuring structures or planting exceeding 30 inches within a triangle formed by the projected intersection of the right-of-way or public road easement lines on the lot corner nearest the intersection, and the 2 points 20 feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way.

(c) Trees exceeding these requirements may be located so that their branches extend into this triangle, provided they are maintained to allow at least 12 feet of visual clearance within the triangle below the lowest hanging branches.

(7) *Height.*

(a) The maximum building height for any dwelling shall be 30 feet;

(b) The maximum building height for all other structure shall be 45 feet, except for accessory structures on any parcel of less than 10 acres the maximum building height shall be 35 feet; and

(c) Appurtenances usually required to be placed above the roof level and not intended for human occupancy such as spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys and wind generators are not subject to the height limitations of this chapter.

(8) *Occupancy of recreational vehicles.*

(a) One recreational vehicle shall be permitted to be parked on any parcel in conjunction with a principal dwelling, and may be used for the temporary accommodation of guests for a period of up to 45 days total in any year.

(b) In no case shall any recreational vehicle be used as a principal dwelling or rented unless and until the necessary permits have been obtained.

(9) *Off-street parking.*

(a) In the RR Districts, prior to establishment of any dwelling, sufficient area must be provided to allow for at least 1 emergency vehicle turnaround; and

(b) Parking requirements for those uses which may generate traffic beyond what is normally expected in the RR Districts, including multi-family dwellings, shall be determined by the Zoning Department subject to the provisions of §§ 154.035 through 154.040 .

(10) *Livestock.* The keeping of livestock shall be allowed in the RR Districts subject to the following restrictions:

(a) All livestock shall be properly fenced and contained so as to minimize adverse impacts to surrounding property;

(b) There shall be at least 10,000 separate square feet of pervious surface area for each cow, horse or similar animal;

(c) There shall be at least 4,000 separate square feet of pervious surface area for each sheep, goat, pig or similar animal;

(d) There shall be at least 600 separate square feet of pervious surface area in an enclosed structure for poultry or rabbits or similar animals;

(e) There shall be at least 3,500 separate square feet of surface area for each dog or cat; and

(f) Animals which are less than 6 months old are excepted from the requirements of this division herein.

(Ord. 2004-05, passed 9-15-2004; Am. Ord. 06, passed 9-15-2004; Am. Ord. 09, passed 9-15-2004; Am. Ord. 2006-06, passed 6-16-2006) Penalty, see § 154.999

#### **§ 154.106 SUBURBAN RESIDENTIAL DISTRICTS (SR).**

**(A) Purpose.**

(1) The purpose of the SR District is to provide for medium density suburban residential development on selected lands identified for medium density residential use in the comprehensive plan.

(2) The SR District is intended to accommodate suburban residential development in locations generally adjacent to urban centers and is characterized by patterns of subdivision or partitioning creating a scale of service and access requirements that are complementary or similar to city residential zones.

(3) Depending upon location, an SR District may be converted in a timely and orderly manner through annexation to city residential lands.

(4) The SR District shall apply only to those lands where the applicant substantially demonstrates community water and sewerage treatment will be available to serve the uses within the district.

**(B) Permitted uses.** In the SR District the following uses shall be permitted subject to the standards and limitations set forth in division (F) below:

(1) Principal dwelling;

(2) Accessory uses;

(3) Public facilities;

(4) Signs, pursuant to the sign provisions set forth in § 154.166; and

(5) Residential group home.

**(C) Conditional uses.** In the SR District, pursuant to the Type B application procedure set forth in § 154.076, and subject to the conditional use review criteria listed in § 154.057, and any

## 17.32 - C-1 GENERAL COMMERCIAL

### Sections:

#### 17.32.010 - Intent.

The purpose of this zone is to provide for those commercial uses which serve the community on a day-to-day basis such as retailing, financial, and personal services.

(Ord. No. 2015-14, 11-16-2015)

#### 17.32.020 - Accessory uses.

All accessory uses in this zone shall be the same as those listed in the R-2 zone district.

(Ord. No. 2015-14, 11-16-2015)

#### 17.32.030 - Supplementary regulations.

- A. Area. Any lot under a residential use shall have a minimum ground area of seven thousand (7,000) square feet and a minimum width of seventy (70) feet.
- B. Setback. Any lot under a residential use shall have the same setback requirements as those prescribed in the R-2 zone district. Any lot in commercial use shall have a front setback of six (6) feet.
- C. Height. No building or structure shall exceed forty-five (45) feet except as otherwise provided in this title.
- D. Off-Street Parking. Provided in chapter 17.56 of this title.

(Ord. No. 2015-14, 11-16-2015)



## 17.54.060 FENCING & WALLS

### Purpose

The intent of fencing standards is to establish a uniformity of fencing appearance and materials of construction and create a general front yard harmony of one building with another in relation to the street.

Pre-existing fencing shall be grand fathered in and not subject to change under this Ordinance unless existing fencing is replaced, then it shall meet current standards.

All new fence construction shall require City Planning Department approval prior to construction.

### A. General standards

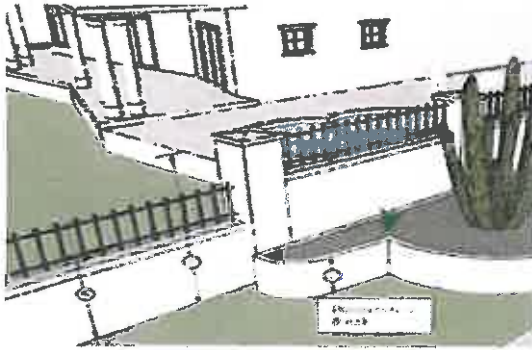
1. Fencing and screening shall be permitted as provided in the Section
2. Fencing materials shall be durable and consistent with abutting fences.
3. The height and location requirements of this section may be modified as part of a subdivision, planned area and development, with a conditional use approval. For fences on retaining walls, see definition of a retaining wall.
4. Any parcel in residential use with a lot size of 10,000 square feet or smaller shall have no fencing or screening located within the front yard with the exception of private courtyards.



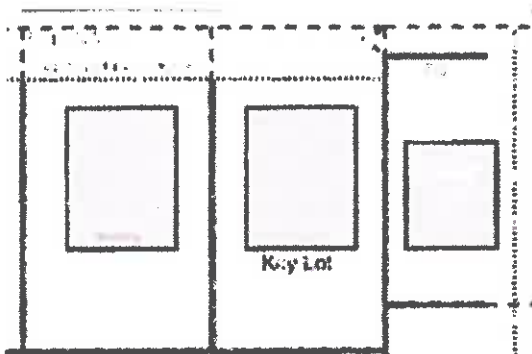
5. Front courtyard fencing shall not exceed thirty-six inches (36") in height. Such fences may be increased to forty-eight inches (48") maximum height if the fencing material extending above the thirty-six in height is an open material such as wrought iron or vinyl rail.



6. A fence constructed on a side or rear property line shall not exceed a height of six feet (6') from highest finished grade adjacent to the fence, nor more than eight feet (8') from the lowest grade adjacent to the fence. Any fence of more than six feet (6') in height on the low side shall use berming, landscaping, fence offset(s) or similar enhancements to mask height differences, and in no case shall the fence height exceed eight feet (8'). Where the fence height exceeds six (6') on the lower side, a view fence shall be required for the portion above (6') in height.



7. Any fence above six feet (6') in height shall be designed by a New Mexico registered structural engineer and approved by the City.
8. On that part of the lot other than the required front yard setback area, fences may be erected up to six (6') feet in height.
9. For fencing purposes on a double front lot: the front shall be defined by the address assigned and the second street side shall be considered the side or rear of the property. Fencing along the side or rear of a corner lot shall be set back from the street side property line not less than half (1/2) the depth of the required front yard setback.



10. The fencing details shall show the proposed method of construction and anchoring of the fence, posts, gate and foundation details if applicable.
11. The fencing details shall clearly show the proposed distance between the

fence and the abutting property lines and the sight line of a street right-of-way to the sight line of a street right-of-way intersection. Adequate sight distance shall be maintained as per 18.31.6 NMAC State Highway Access Management Requirements Table 18.F-2.

12. Front courtyard privacy fencing up to four feet (4') is allowed but must meet setback regulations.
13. The height of fences shall be determined by measurement from the ground level at all points upon which the fence is located. An increase in height shall be allowed when spacing for drainage under the fence is needed.
14. The use of barbed wire, wire mesh, electric fencing, or chain link shall not be used within Residential Zoning Districts of R-1, R-1A, R-2, R-2A, R-3, R-4.



15. Railroad ties and pallets shall not be used in any zoning districts.
16. Razor Wire, railroad ties, pallets, corrugated steel or electric fencing shall not be used in any Residential Zoning districts.
17. Storage areas, solid waste dumpsters, and large items for solid waste pick-up

shall be confined in an enclosed area and shall be of solid construction, six feet (6') high with locking gates providing access.

18. Fence lighting shall adhere to the night sky regulations, be low profile, no more than eighteen inches (18") above the fence line and not be in a position to interfere with abutting owners privacy.
19. All fencing shall be maintained in like new conditions with proper repairs to replace any damaged fencing or posts. Any repairs shall not be with wire, zip ties, duct tape or other like material.

**B. New Subdivisions & Agricultural Zoning District (A-R).**

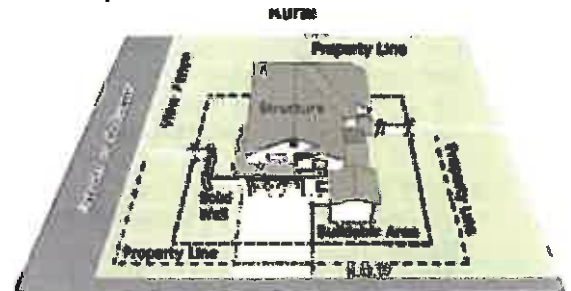
1. All fencing along the perimeter of an Agricultural Zoning District (A-R) and new subdivision not adjacent to an arterial or collector street shall be full view fencing of an open style material.



2. All fencing along arterial and collector streets shall be either full view fencing or partial view fencing (4' solid-2' view). The top of any view fence, if constructed of ornamental iron or a similar material shall have a rail or horizontal member such that no portion of the view fence protrudes not more than two inches (2") above the top rail or horizontal member.



3. Construction of solid fences no taller than six feet (6') shall be limited to the lots within the subdivision. However, view fencing no taller than six feet (6') shall be limited to the buildable area of the lot within the building envelope. However, view fencing no taller than six feet (6') (3' solid – 3' view) may be allowed along property boundaries interior to the subdivision in accordance with the provisions of the title.



4. All solid and view fences within the building envelope shall be decoratively treated on the public side to match the architectural style and design of the neighborhood.





**C. Residential Zoning Districts R-1, R-1A, R-2, R-2A, R-3, R-4.**

1. Fences adjacent to streets may be solid and no taller than six feet (6') in height.
2. Fences adjacent to a community open space system or trail shall be partial view fencing (4' Solid – 2' view). The top of any view fence, if constructed of ornamental iron or a similar material, shall have a rail or horizontal member such that no portion of the view fence protrudes not more than two inches (2") above the top rail or horizontal member.
3. All fences shall be decoratively treated on the public side to match the architectural style and design of the neighborhood.



**D. Commercial Zone Districts C-R, C-1, C-2**

1. All residential uses located in a Commercial Zone shall use the Residential Zoning District fence regulations.
2. A fence constructed on a side or rear property line shall not exceed a height of seven feet (7') with one foot (1') of

out rigging for a total of eight feet (8') from the highest finished grade adjacent to the fence, nor more than ten feet (10') from the lowest grade adjacent to the fence. Any fence of more than six feet (6') in height on the low side shall use berming, landscaping, fence offset (s) or similar enhancements to mast height differences, and when adjacent to single or multi-family residential the fence height shall not exceed eight feet (8').



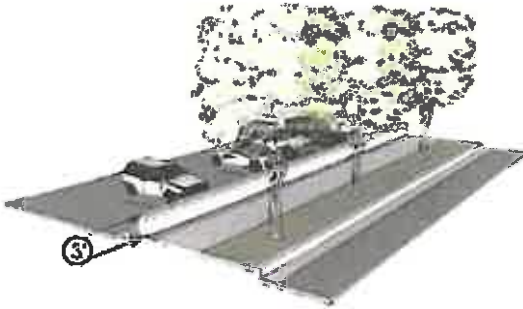
3. Front fencing and perimeter fencing shall be allowed in the following Commercial uses;
  - a. Storage units, Warehouses, Equipment buildings, Automotive related activities, utility buildings, open storage and impound areas.
4. All perimeter fences adjacent to an arterial or major collector shall be decorative. A decorative variation shall be provided every fifty feet.



5. All perimeter fences shall be finished on all sides to match the commercial and or industrial product architectural style and design.



6. Parking areas adjacent to the required front yard shall provide a decorative screen wall or landscape berm or combination thereof to a height not to exceed three feet (3') in order to adequately screen the undercarriages of the parked vehicles.

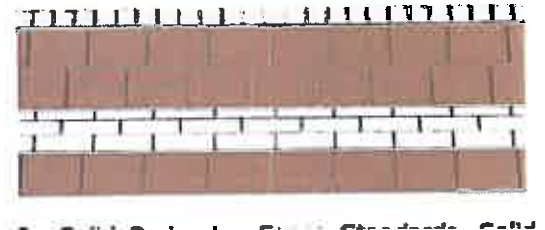


7. All other Commercial uses shall follow setback regulations for the specified Commercial zone provided in Title 17 of the City of Belen Municipal Codes.

**E. Manufacturing and Industrial Zone  
Districts M-C, M-1.**

1. Residential uses located within a Manufacturing and Industrial Zone District shall use the Residential Zoning District regulations.
2. A fence constructed on a side or rear property line shall not exceed a maximum height of Twelve feet (12'). Any fence of more than ten feet (10') in height side shall use berming, landscaping, fence offset (s) or similar enhancements to mast height.
3. Solid fencing use along arterial and collector street on the perimeter of residential projects addresses individual property concerns regarding noise, light, privacy and safety. Because solid fence use

affects the image, character, safety, and privacy of the community, design upgrades such as material choices and additional buffering to offset the reduction in project openness and reduce the impact of solid fencing is required.



4. Solid fence designs shall require use of a minimum of three (3) materials including stone, brick, block or textured block including treated, split-face, single-score or patterned integrally colored block or similar enhancement and may include changes in color or texture.



5. Fencing within the Manufacturing and Industrial Zone districts shall require a plan review by the Planning & Zoning Commission.



**F. Special Use Zone District SU-1.**

1. The underlying use within the Special Use Zone shall determine what fence regulations apply.
2. Fencing within the Special Use Zone shall require a plan review by the Planning and Zoning Commission.



# Queen Creek Zoning Ordinance



Original adoption January 6, 1999. Updated April 19, 2017, Ordinance No's 628-17 through 636-17.

## ARTICLE 5 – SITE IMPROVEMENT STANDARDS

b. Retention areas or detention basins which are required as part of this Ordinance or the Subdivision Ordinance shall not qualify as an open space area unless fifty percent (50%) or more of the active and usable area is above the twenty-five (25) year storm and is designed for multiple area(s) conforms to the requirements of subsection (1) and (2) below. This standard shall not apply to non-residential developments which shall be permitted to calculate the retention and detention area as part of the required open space area.

1) Retention or detention areas shall be an integral part of the subdivision either as a greenbelt, or as a single basin. Retention areas shall be improved so as to be useable and accessible. Site and architectural amenities, such as armadas or benches shall be provided. "Tot lots", playground equipment, and sport courts equipment shall be elevated above the bottom of the basin for uninterrupted use.

2) Retention or detention areas shall be given a natural character and shall be constructed of natural materials. Terracing, berming and contouring is required in order to naturalize and enhance the aesthetics of the basin. Basin slopes shall not exceed a three to one (3:1) slope.

c. Open space areas shall be landscaped and the majority of the area shall be visible from at least one (1) adjoining arterial, collector, or local street.

F. *Preservation of Open Space.* Open space areas shall be maintained so that their use and enjoyment as open space are not diminished or destroyed. Open space areas may be owned, preserved, and maintained as determined by the Town Council by any of the following mechanisms or combinations thereof:

1. Dedication of open space to the Town, an appropriate public agency, or a non-profit entity if there is a public or non-profit agency willing to accept the dedication and financially capable of maintaining such open space. The Town may not

accept the dedication of open space unless such dedication is part of a linked open space or trails system included in the Queen Creek Open Space and Trails Plan. Dedication of Sonoqui and Queen Creek washes may be required along with rezoning and / or plat approval if the Town demonstrates that impacts of the development on stormwater discharge, public recreation, or water quality are proportionate to the amount of wash area being dedicated. The applicant for plat approval or rezoning may consent to said dedication, pursuant to Section 3.4 of this Ordinance or as a condition of development approval, and said consent shall be deemed to waive any and all constitutional challenges to said dedication requirement;

2. Common ownership of the open space by a homeowner's or neighborhood association which assumes full responsibility for its maintenance except for lands dedicated to the Town. The restrictive covenants shall provide that, in the event that any private owner of open space fails to maintain same according to the standards of this Ordinance, the Town may, following reasonable notice and demand that deficiency of maintenance be corrected, enter the open space to maintain same. The cost of such maintenance shall be charged to those persons having the primary responsibility for maintenance of the open space and shall constitute a lien upon the property and buildable lots of the subdivision or development site; and,

3. Payment of a fee in lieu of dedication of open space, if:

a. The Town Council establishes an Open Space Acquisition Trust Fund for the receipt of fees and other financial commitments for the acquisition and development of public open space.

b. The Town Council adopts an ordinance establishing a fee in lieu or dedication of land for open space. The ordinance shall include the following:

1) The fee amount per residential dwelling unit or equivalent residential dwelling unit;



## ARTICLE 5 – SITE IMPROVEMENT STANDARDS

- 2) Time of determination of the fee;
- 3) Time of payment of the fee;
- 4) Form of payment of the fee;
- 5) Restrictions on use of the fees collected;
- 6) Time limit on expenditure of fees;
- 7) Placement of fees in the Open Space Acquisition Trust Fund;
- 8) Maintenance of financial records;
- 9) Allocation of interest on trust fund accounts; and,
- 10) Refund procedures.

**G. Open Space Requirements.** As a part of any application for development approval such as rezoning, site plan, and subdivision and in conjunction with the required landscape plans in Section 5.3, the applicant shall submit an Open Space Provision and Maintenance Plan meeting the requirement of subsections A through C herein.

### 5.5 Lighting

**A. Purpose.** These provisions are intended to control the use of outdoor artificial illuminating devices emitting rays into the night sky which have a detrimental effect on the rural atmosphere, astronomical observations, and which create glare. It is the intention of this Ordinance to encourage good lighting practices such that lighting systems are designed to conserve energy and money, to minimize glare, to protect the use and enjoyment of surrounding property, and to increasing nighttime safety, utility, security, and productivity. The provisions of this Section are authorized by Section 49-1106, A.R.S., which provides that the provisions of Section 49-1101 through Section 49-1106, A.R.S., are cumulative and supplemental and shall not apply within any county, city or town which by ordinance or resolution has adopted provisions restricting light pollution which are equal to or more stringent than the provisions of this Section.

#### **B. Conformance with Applicable Codes.**

1. All outdoor artificial illuminating devices shall be installed in conformance with the provisions of this section and the building code of the Town of Queen Creek.
2. Where any provisions of the Arizona Revised Statutes, or any Federal law, or any companion Ordinance conflicts with the requirements of this outdoor light control provision, the most restrictive shall govern.
3. The provisions of this section are not intended to prevent the use of any material or method of installation not specifically prescribed by this Ordinance. In considering any variance from the provisions of this Ordinance, the Board of Adjustment shall take into consideration any state of the art technology which is consistent with the intent of the Ordinance as new lighting technology develops which is useful in reducing light above the horizontal plane.

#### **C. Shielding and Filtration.**

1. All non-exempt outdoor lighting fixtures shall be limited to the types of fixtures specified in Table 5.5-1 of this Ordinance and shall have shielding and filtration as required by Table 5.5-1 of this Ordinance.
2. Light source locations shall be chosen to minimize the hazards of glare. The ratio of spacing to mounting height shall not exceed a four to one (4:1) ratio.
3. Poles and standards. All poles or standards used to support outdoor lighting fixtures shall be anodized or otherwise coated to minimize glare from the light source.

**D. Illumination.** In order to minimize glare and hazardous conditions, illumination levels shall not exceed the levels set forth in Table 5.5-2 for any use permitted by this Ordinance. The maximum illumination shall be measured at grade at the property line of the site in accordance with subsection J of this Section.

## ARTICLE 5 – SITE IMPROVEMENT STANDARDS

**Table 5.5-1 Shielding Requirement**

Area / Activity	Lux (lx)	Footcandles (fc)
<b>Residential Zoning Districts</b>		
Building Exterior	50	5.0
Front, side, or rear yard (at property line)	10	1.0
<b>Non-residential zoning districts</b>		
Adjoining another non-residential zoning district along major arterial	20	2.0
Adjoining residential zoning district along major arterial	10	1.0
Adjoining another non-residential zoning district along minor arterial or collector street	6	0.6
Adjoining another non-residential zoning district along local street	4	0.4
Adjoining another non-residential zoning district along property line	10	0.9
Adjoining residential zoning district along property line	2	0.2
<b>Outdoor Events</b>		
Adjoining non-residential zoning district	1,000	100
Adjoining or within one-thousand feet (1,000') of residential zoning district	100	10

**Notes:**

- [1] This is the preferred light source to minimize undesirable light emission into the night sky affecting astronomical observations.
- [2] Metal halide lighting used primarily for display purposes shall not be used for security lighting after 11:00 p.m. Metal halide lamps shall be installed only in enclosed luminaires.
- [3] Outdoor advertising signs of the type constructed of translucent materials and wholly illuminated from within, do not require shielding. Dark backgrounds with light lettering or symbols are preferred, to minimize detrimental effects.
- [4] For the purposes of this Code, quartz lamps shall not be considered an incandescent light source.
- [5] Warm white and natural lamps are preferred to minimize detrimental effects.

- [6] Metal halide fixture lamp types shall be filtered. "Filtered" means any outdoor light fixture which has a glass, acrylic or translucent enclosure of the light source (quartz glass does not meet this requirement).

**Table 5.5-2 Illumination Standards**

Fixture Lamp Type	Shielded	Filtered
Low Pressure Sodium [1]	Partially	None
High Pressure Sodium	Fully	None
Metal Halide	Fully [2, 6]	Yes
Fluorescent	Partially [3, 5]	Yes
Quartz [4]	Partially	None
Incandescent, Greater than 150W	Partially	None
Incandescent, 150W or Less	No	None
Fossil Fuel	No	None
Glass Tubes filled with Neon, Argon, Krypton	No	None

**E. Control of Glare.**

1. Any luminaire with a lamp or lamps rated at a total of more than 1,800 lumens and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall not emit any direct light above a horizontal plane through the lowest direct light emitting part of the luminaire.
2. Any luminaire with a lamp or lamps rated at a total of more than 1,800 lumens and all flood or spot luminaires with a lamp or lamps rated at a total of more than 900 lumens shall be mounted at a height not exceeding the value  $3 + (D/3)$ , where D is the distance in feet to the nearest property boundary. The maximum height of the luminaire shall not exceed twenty-five feet (25').
3. **Exceptions.**
  - a. Any luminaire with a lamp or lamps rated at a total of 1,800 lumens or less and all flood or spot luminaires with a lamp or lamps rated at 900 lumens or less may be used without restriction to light distribution or mounting height except that if any spot or flood

## ARTICLE 5 – SITE IMPROVEMENT STANDARDS

luminaire rated 900 lumens or less is aimed, directed or focused such as to cause direct light from the luminaire to be directed toward residential buildings on adjacent or nearby land or to create glare perceptible to persons operating motor vehicles on public ways, the luminaire shall be re-directed or its light output controlled as necessary to eliminate such conditions.

- b. Luminaires used for public roadway illumination may be installed at a maximum height of twenty-five feet (25') and may be positioned at that height up to the edge of any bordering property.
- c. All temporary emergency lighting needed by the Police, the Fire Departments or other emergency services as well as all vehicular luminaires shall be exempt from the requirements of this Ordinance.

### F. Prohibitions.

- 1. *Mercury Vapor Fixtures and Lamps.* The installation of any mercury vapor fixture or lamp for use as outdoor lighting is prohibited.
- 2. *Certain Other Fixtures and Lamps.* The installation of any low pressure sodium, high pressure sodium, metal halide, fluorescent, quartz or incandescent outdoor lighting fixture or lamp that does not comply with the shielding requirements of Table 5.5-1 and the illumination standards of Table 5.5-2 is prohibited.
- 3. *Laser Source Light.* The use of laser source light or any similar high-intensity light for outdoor advertising, when projected above the horizontal, is prohibited.
- 4. *Searchlights.* The operation of searchlights for advertising purposes is prohibited between the hours of 11:00 p.m. and sunrise.
- 5. *Recreational Facilities.* No outdoor recreational facility, public or private, shall be illuminated by non-conforming means after 11:00 p.m., unless

otherwise permitted by the Town Council pursuant to a conditional use permit, except to conclude specific recreational or sporting event or any other activity conducted at a ball park, outdoor amphitheater, arena, or similar facility in progress prior to 11:00 p.m. All recreational outdoor lighting shall comply with height restrictions as specified in the building codes. Outdoor lighting for open-air arenas primarily used for rodeo and roping activities, shall be permitted to a maximum height of thirty feet (30'), provided shielding and filtration requirements are met.

- 6. *Outdoor Building or Landscaping Illumination.* The unshielded outdoor illumination of any building, landscaping, signing or other purpose is prohibited, except with incandescent fixtures of 150 Watts or less, or low pressure sodium fixtures.

### G. Exceptions. The following types of light fixtures shall be exempt from the provisions of this Section:

- 1. *Non-Conforming Fixtures.* All outdoor light fixtures installed prior to January 1, 1985, those equipped with a permanent automatic shut-off device may remain unchanged, except that the subject light fixtures shall not be operated between the hours of 11:00 p.m. and sunrise.
- 2. *Fossil Fuel Light.* Light which is produced directly or indirectly by the combustion of natural gas or other utility-type fossil fuels.
- 3. *Low Intensity Fixtures.* Any outdoor lighting fixture which has a maximum candle power or less than one-thousand (1,000) candelas is exempt from these provisions, if equipped with an automatic device which shuts off the fixture between the hours of 11:00 p.m. and sunrise.

- H. *Recreational Facilities.* Any light source permitted by this Ordinance may be used for lighting of outdoor recreational facilities (public or private), such as, but not limited to football fields, soccer fields, baseball fields, softball fields, tennis courts, auto race-tracks, horse race-tracks or show

## ARTICLE 5 – SITE IMPROVEMENT STANDARDS

arenas, consistent with the illumination standards specified in Table 5.5-2 herein, provided all of the following conditions are met:

1. All fixtures used for event lighting shall be fully shielded, or shall be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light and glare.
  2. All events shall be scheduled so as to complete all activity before or as near to 10:30 p.m. as practical, but under no circumstances shall any illumination of the playing field, court, or track be permitted after 11:00 p.m.; except to conclude a scheduled event that was in progress before 11:00 p.m. and circumstances prevented concluding before 11:00 p.m.
  3. The height of such lighting shall be a maximum of eighty feet (80').
- I. *Outdoor Display Lots.* Any light source permitted by this Ordinance may be used for lighting of outdoor display lots such as, but not limited to, automobile sales or rental, recreational vehicle sales or building material sales, provided all of the following conditions are met:
1. All fixtures used for display lighting shall be fully shielded, or be designed or provided with sharp cut-off capability, so as to minimize up-light, spill-light and glare.
  2. Display lot lighting shall be turned off within thirty (30) minutes after the closing of the business. The full illumination of the lot may be permitted after 11:00 p.m., pursuant to a Temporary Use Permit (see Section 3.6). Any lighting used after shall be used as security lighting.
- J. *Residential Neighborhoods.* Adequate lighting for residential neighborhoods may be provided for all outdoor amenities areas used at night (i.e. parks, trails, fields, open space areas, sport courts, etc). Lighting sources shall be appropriately shielded from adjacent residential uses to minimize any negative impacts. The following additional standards shall apply:

- a. All outdoor amenity area lighting within 100 feet of a residential property line shall not exceed a maximum height of fifteen feet (15');
- b. In all other amenity areas lighting shall not exceed a maximum height of twenty five feet (25');
- c. All outdoor amenity area lighting shall be setback from all property lines by a minimum distance of fifteen feet (15');
- d. *Submittal Requirements.* A Lighting Plan shall be submitted as part of the Site Plan or Preliminary Plat application which details the location and specifications of all proposed lighting. An ISO foot-candle diagram shall also be provided to indicate the level and extent of proposed lighting.

### K. *Measurement.*

1. *Metering Equipment.* Lighting levels are to be measured in foot-candles with a direct-reading, portable light meter. The meter typically has a color and cosine-corrected sensor with multiple scales and shall read within an accuracy of plus or minus five percent (5%). It shall have been tested, calibrated, and certified by an independent commercial photometric laboratory or the manufacturer within one (1) year of its use.
2. *Method of Measurement.* The meter sensor shall be mounted not more than six inches (6") above ground level in a horizontal position. Readings are taken by qualified personnel only after the cell has been exposed long enough to provide a constant reading. Measurements are made after dark with the light sources in question on, then with the same sources off. The difference between the two (2) readings shall be compared to the maximum permitted illumination and property line at ground level. This procedure eliminates the effects of moonlight and other ambient light sources. Where light patterns overlap, their total intensity shall be the sum of their individual intensities.